



Ordinance No. O2017-04-002

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NOGALES, ARIZONA, AMENDING CITY DEVELOPMENT STANDARDS CODE BY ADDING SECTION 1005 ADMINISTRATIVE MODIFICATIONS TO DEVELOPMENT STANDARDS

WHEREAS, after consideration at a public hearing before the Planning and Zoning Commission, the Commission unanimously recommends to the City Council the adoption of new Section 1005 of the Nogales Development Standards Code, attached hereto as Exhibit "A"; and

WHEREAS, after a public hearing held before the City Council at which members of the public were provided the opportunity to comment on said Section 1005, the Council agrees it is in the best interest of the City and its residents to enact said proposal.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Nogales, Arizona, as follows:

- Section 1:** Nogales Development Standards Code Article One "Zoning" is hereby amended to add new section 1005, which shall read as set forth herein at Exhibit "A".
- Section 2:** All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of any such conflict.
- Section 3:** This Ordinance shall take effect thirty days from enactment.
- Section 4:** In the event any provision in this ordinance is held invalid by any court of competent jurisdiction, the remaining provisions in this ordinance shall be deemed severable and shall remain in full force and effect.
- Section 5:** The City Clerk is directed to publish the text of this Ordinance in a newspaper of general circulation for two (2) consecutive weeks after its effective date, and further to post a copy of this Ordinance in three (3) or more public places within the City.

PASSED, ADOPTED, AND APPROVED by the Council of the City of Nogales, Arizona, this 05th day of April, 2017.

John F. Doyle, Mayor

ATTEST:

APPROVED AS TO FORM:

Leticia Robinson, City Clerk

Jose L. Machado, City Attorney

STAFF SUMMARY

SUBJECT: Design Development Option Ordinance

BACKGROUND: Applicants seeking development permits in Nogales face unique challenges due to extreme topographical variation, historical development patterns and out-of date development standards. Currently the only process that an applicant may seek relief from development standards is through a Board of Adjustment variance. The variance process is effective; however, it creates a delay to development, is not guaranteed and should not be used for basic and intuitive requests for modifications that are contextually compatible.

Staff has created a Design Development Option (DDO) ordinance with the purpose of simplifying and expediting applicant requests for minor modifications. The concept of a Design Development Option was borrowed from the City of Tucson and modified to address some of the unique and frequent minor land use challenges in Nogales.

The purpose of the proposed Design Development Option (DDO) ordinance is to provide an administrative process by which specific development and dimensional standards of the Development Standards Code (DSC) may be modified under certain criteria applicable to a land use within a zone. A Design Development Option (DDO) is intended to encourage the following:


1. Flexible design solutions that are broadly consistent with these regulations, that present an efficient and high-quality use of land, that do not create undue adverse impacts on adjacent property, and that address situations where strict application of a standard may not be practical;
2. Energy conservation through site and building design;
3. Innovation in site planning and architectural design; and,
4. Enhancement of community aesthetics and property values.

STATUTORY REQUIREMENTS: Staff began working on this project in July of 2016. On March 9, 2017, the Planning and Zoning Commission passed the draft ordinance unanimously. Public Notice was posted and published in the Nogales International in accordance with statutory requirements prior to the March 9, 2017, Planning and Zoning Commission meeting. Staff has received no comment regarding the draft ordinance but Planning and Zoning Commissioners stated that they have received positive comments from developers.

STAFF RECOMMENDATION: Staff recommends approval.


SUGGESTED MOTION:

"I move to approve Order No: O2017-04-002"



Joe Machado, City Attorney

03/31/2017



Joe Machado, City Attorney

03/31/2017



Carlos Rivera, City Manager

03/31/2017

SEC. 1005 – ADMINISTRATIVE MODIFICATIONS TO DEVELOPMENT STANDARDS

SEC. 1005.1 - DESIGN DEVELOPMENT OPTION (DDO)

A. Purpose

This section is established to provide an administrative process by which specific development and dimensional standards of the Development Standards Code (DSC) may be modified under certain criteria applicable to a land use within a zone. A Design Development Option (DDO) is intended to encourage the following:

1. Flexible design solutions that are broadly consistent with these regulations, that present an efficient and high-quality use of land, that do not create undue adverse impacts on adjacent property, and that address situations where strict application of a standard may not be practical;
2. Energy conservation through site and building design;
3. Innovation in site planning and architectural design; and,
4. Enhancement of community aesthetics and property values.

B. Applicability

The following dimensional, landscaping and parking standards may be considered for modification under this Section in industrial, commercial, residential or multiuse zones;

1. Setbacks;
2. Height of accessory walls and fences up to two feet above the maximum height permitted;
3. Landscaping standards when the modification does not result in a net decrease of the required area in square footage of landscaping; and,
4. Parking, when the modification request includes proposed development or redevelopment of fifty percent or more of a site; changes of use in an existing development; or any material expansion of an existing use. Parking modification is available for one or more of the following types of development:
 - a. Combined residential and non-residential development in a single structure or unified development;
 - b. Projects within 660 feet (one-eighth of a mile) of publicly available parking may be eligible for up to a 25% reduction of parking requirements through a qualified parking plan;
 - c. Projects may account for up to 75% of on-site parking requirements via a shared parking agreement within 660 feet (one-eighth of a mile) of the project;
 - d. Projects including care services or housing developments for the elderly or individuals with physical disabilities;
 - e. The parking area of any existing development may continue to be used in its current configuration except where a public safety hazard exists, may be created, or adjustments in parking space dimensions are required.

C. Application

Submittal of an application to the Planning and Zoning Department is required to process a DDO request. Only one application is required when more than one modification is being requested

and may be processed concurrently. Parking modification requests shall also include the following information:

1. Number of required and proposed on-site parking spaces;
2. Location of parking spaces including accessible parking spaces;
3. Existing and proposed site conditions and uses including on-street parking;
4. Site access and traffic circulation patterns;
5. Distance to the nearest residential neighborhoods;
6. Distance to nearest public parking, together with number of spaces available to public;
7. Hours of operation and peak use times;
8. Existing and proposed shared parking agreements;
9. Any other information deemed appropriate by the P&Z Director, including a traffic study.

D. Notice Requirements

1. The DDO request, including a descriptive diagram, shall be mailed by Planning staff to the owners of all parcels located within 50 feet, excluding rights of way, of the subject property.
2. The notice shall inform the owners that if they object to the proposed modification, they must contact Planning staff by phone or letter within 30 days of the notice.
3. If more than one objection is received, then the Director shall assign the matter to an outside development professional for a report and recommendation, with the cost of such report paid for by applicant. The outside consultant shall make personal contact with any person submitting an objection.
4. The Director's written decision shall be mailed to any person filing an objection to the request, together with the objector's right to appeal the decision pursuant to Subsection F below.

E. Findings Necessary for Approval

1. General Findings for All DDO Modification Requests

The Director may approve a DDO request upon a determination that the request meets all of the following findings:

- a. The subject development is of a high standard and quality such that the community as a whole and surrounding vicinity will benefit from its realization.
- b. The modification narrowly relates to physical circumstances or conditions of the property, such as irregular shape, narrowness of lot, exceptional topographic conditions or location and is essential to allow the requested development to proceed.
- c. The modification is broadly consistent with existing development in the immediate area.
- d. The modification does not create undue detrimental impacts to adjacent parcels such as causing pollution, objectionable noise, odors, trespass lighting or similar issues.
- e. Is not for a previously denied variance request;
- f. Does not modify contingent special conditions or findings that allow the use in the zone;
- g. Does not modify a requirement of an overlay zone;
- h. Does not result in deletion of a Development Standards Code requirement;
- i. Does not create a safety or health hazard.

2. **Specific Findings for Setback and Wall Height Modification Requests**

In addition to the findings in Section 1005-1-E, the Director shall find, in the case of setback and wall height only, that the modification:

- a. Does not create a situation where proposed development will obstruct significant views of dramatic land forms, unusual stands of vegetation, or parks from nearby properties substantially more than would occur if the development were built without the modification;
- b. Provides design alternatives to better integrate the development into the design character of the immediate neighborhood; and,
- c. The modification is not for an increase in height of more than two feet to an accessory wall or fence, except that an increase of up to four feet may be considered for entry features on walls and fences.

3. **Specific Finding for Parking Modification Requests**

The Director may approve a DDO parking modification request if the following criteria are met in the findings:

- a. The zone permits the proposed use;
- b. All required parking is provided on-site or at an acceptable off-site location;
- c. For multiple or mixed use projects, the site can accommodate shared parking arrangements for uses with alternate hours of operation or peak use times;
- d. Does not result in a reduction greater than 25% of required parking in accordance with DSC Section 602.1, *Automobile Parking – Off-Street Requirements*.
- e. Site access and traffic circulation are not obstructed;
- f. Accessible parking spaces required by the city of Nogales have not been reduced or eliminated;
- g. Vehicular access, drive-through traffic and habitual parking in adjacent commercial development and residential neighborhoods is deterred;
- h. Light intrusion into residential uses or zones is not created.

F. **Appeals**

A party of record may appeal the Planning and Zoning Director's decision on DDO applications. Appeals are considered by the Board of Adjustment in accordance with Section 1104, *Appeal Hearing*. Appeals must be filed within five days of the effective date of the decision. The complete appeals material must be filed within 30 days of the effective date of the decision. An appeal under this section shall be based upon an error in the Director's decision finding compliance or noncompliance with the applicable findings. The Board of Adjustment shall apply the applicable findings as provided in Section 1005-1-E, *Findings for Approval*, when rendering its decision.

G. **Expiration of Approval**

Any Design Development Option (DDO) approval granted by the Director shall be null and void if building permits are not issued implementing the DDO or compliance with conditions of

approval does not occur within 180 days from the date of approval. One extension of up to 180 days may be granted by the Director for good cause.

MEMORANDUM

To: Carlos Rivera, City Manager
John Doyle, Mayor
Greg Lucero, Vice-Mayor
Joe Diaz, Councilman
Robert Rojas, Councilman
Marcelino Varona, Councilman
Nubar Hanessian, Councilman
Jorge Maldonado, Councilman

From: Frank Dillon, Executive Secretary, Planning & Zoning Commission

Date: March 24, 2017

Re: DESIGN DEVELOPMENT OPTION ORDINANCE

Background: In July 2016, staff created a Design Development Option (DDO) ordinance with the purpose of simplifying and expediting applicant requests for minor modifications. In January and February 2017, early versions of the draft were presented to the Planning & Zoning (P&Z) Commission in study sessions. On March 9, 2017, P&Z Commission unanimously recommended the ordinance be forwarded to Mayor and Council.

Public Notice was posted in accordance with statutory requirements prior to the March 9, 2017, Planning and Zoning Commission meeting. Staff has received no public comment regarding the draft ordinance. Please refer to the staff report for further information.

Planning & Zoning Commission Recommendation: Adoption of the ordinance as presented based on satisfaction of all procedural and statutory requirements.

Attachment: DDO_Memo (O2017-04-002 : Ordinance Adopting DDO Amendment to DSC)